

AMENDMENTS TO THE CLAIMS:

The listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

1 – 28. (Canceled)

29. (Currently Amended) A gastroplasty device, comprising:

a cartridge assembly having a longitudinal axis, the cartridge assembly having a first tissue acquisition member pivotable about the longitudinal axis in relation to a second tissue acquisition member, and wherein the first tissue acquisition member includes a first mating surface that abuts a second mating surface of the second tissue acquisition member when the cartridge assembly is in a closed configuration;

each tissue acquisition member including a tissue receiving cavity including an opening disposed in the respective first and second mating surfaces ~~sized to receive a fold of stomach tissue,~~ the tissue receiving cavity being coupled to a vacuum port source located opposite said opening to draw a first tissue fold into the first acquisition member cavity and a second tissue fold into the second acquisition member cavity; and

a stapler disposed on the first tissue acquisition member and the second tissue acquisition member for stapling the ~~fold of stomach tissue~~ first tissue and the second tissue fold together.

30. (Previously Presented) The gastroplasty device of claim 29, further comprising a septum removably positioned between the first tissue acquisition member and the second acquisition member.

31. (Currently Amended) The gastroplasty device of claim 29, wherein the vacuum source of the first tissue acquisition member is actuatable separately from the vacuum source of the second tissue acquisition member, ~~further comprising an~~ expandable element.

32. (Currently Amended) The gastroplasty device of claim 29 ~~[[31]]~~, wherein the cartridge assembly includes an expandable element ~~is selected from the group consisting of a scope, a balloon, and a wire form.~~

33. (Previously Presented) The gastroplasty device of claim 30, wherein the septum comprises a bioabsorbable material.

34. (Previously Presented) The gastroplasty device of claim 33, wherein the bioabsorbable material is selected from the group consisting of polylactic acid (PLA), poly(lactic-co-glycolic acid) (PLGA), and polyglycolic acid (PGA).

35. – 36. (Canceled)